

REMARKS

In the Office Action¹, the Examiner rejected claims 6-9 under 35 U.S.C. §101; rejected claims 1-5 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,873,071 to Ferstenberg et al. ("*Ferstenberg*"); rejected claims 1-8 under 35 U.S.C. § 103(a) as being unpatentable over *Ferstenberg*; and rejected claim 9 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,873,071 to Conklin et al. ("*Conklin*").

By this Amendment, Applicants amend claims 1, 6, 7, and 9. Claims 1-9 remain pending.

Applicants thank Examiner Ruhl for the telephone interview on May 11, 2009. During the interview, the Office Action, the pending claims, and the cited prior art was discussed.

The Examiner rejected claims 6-9 under 35 U.S.C. § 101 allegedly "because the claimed invention is directed to non-statutory subject matter" (Office Action at page 2).

The Examiner states that "none of the central or important steps . . . of the process are tied to any particular device." Applicants amend claims 6-9 to tie the claims to a computer, which is clearly statutory subject matter.

Applicants submit that, as amended, claims 6-9 clearly recite statutory subject matter. Accordingly, Applicants respectfully request that the rejection of claims 6-9 under 35 U.S.C. § 101 be withdrawn.

¹ The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

Applicants respectfully traverse the rejection of claim 1 under 35 U.S.C. § 102(b) as being anticipated by *Ferstenberg*.

Independent claim 1, as amended, recites a content distribution system, including, for example,

a seller information processing apparatus;

a buyer information processing apparatus;

an escrow agent computer configured for receiving escrow processing information from an escrow system management server, for confirming transfer of money from an account of a buyer to an escrow agent, for generating a money transfer completion message upon the confirming, and for sending the money transfer completion message; and

a content distribution intermediary system connected to the seller information processing apparatus, the buyer information processing apparatus, a physical distribution agent, and the escrow agent computer . . . the content distribution intermediary system receiving the money transfer completion message sent from the escrow agent computer.

Ferstenberg does not disclose at least the claimed escrow agent computer and the content distribution intermediary system.

Ferstenberg discloses a “computer system[] that facilitates an automatic exchange of commodities between users according to the user’s goals” (col. 1, lines 6-10). The users are “represented by electronic agents . . . that interact with an electronic intermediary . . . the agents conduct negotiations by exchanging electronic messages with the intermediary” (col. 12, lines 37-50). *Ferstenberg* does not disclose any other parties that are involved except for the users (buyers and sellers) and the intermediary (see Fig. 4). *Ferstenberg* does not disclose or even suggest a “content distribution intermediary system connected to the seller information processing

apparatus, the buyer information processing apparatus, a physical distribution agent, and the escrow agent computer,” as recited in claim 1 (emphasis added).

The Office Action states, “Ferstenberg discloses that there are seller computers and buyer computers, which are the client systems Each client system is connected via a network to the intermediary system 40” (page 5). *Ferstenberg* discloses, “several classes of client systems . . . include[ing] gneral clients 79, limited clients [80], trading workstations and further client types” (col. 39, lines 26-39). *Ferstenberg* further discloses, “[g]lue client systems 82 . . . are more complex clients of the OM (Order-Manager) system. . . . Finally, cerain clients are specialized for administrative and operations functions (col. 40, lines 20-39). The Office Action states, the “claimed escrow agent computer is just a recitation to another computer and is satisfied by another client system or computer” (page 5). This is not correct. None of the client systems or computers disclosed by *Ferstenberg* teach or even suggest “an escrow agent computer configured for receiving escrow processing information from an escrow system management server, for confirming transfer of money from an account of a buyer to an escrow agent, for generating a money transfer completion message upon the confirming, and for sending the money transfer completion message,” as recited in claim 1 (emphasis added).

Accordingly, *Ferstenberg* cannot anticipate claim 1. Claims 2-5 depend from claim 1, and are thus allowable over *Ferstenberg* for at least the same reasons as claim 1.

Applicants respectfully traverse the rejection of claims 1-8 under 35 U.S.C. §103(a) as being unpatentable over *Ferstenberg*. A *prima facie* case of obviousness has not been established.

Independent claim 6, as amended, recites a method including, for example,

a content distribution intermediary system comprising a computer . . .

generating, by the computer, escrow processing information about the purchase-and-sale contract for the media content for processing by an escrow agent, wherein the escrow processing information comprises title of the media content, name of buyer, name of seller, price, and date; [and]

transmitting, by the computer, the escrow processing information to the escrow agent, wherein the escrow agent tracks status of payment for the media content based on the escrow processing information and generates a money transfer completion message based on the status and the escrow processing information.

The Office Action seems to admit that *Ferstenberg* does not disclose these elements of claim 6 (Office Action at page 13). The Office Action states, "generating and transmitting 'escrow processing information' to an escrow agent . . . is directed to the generation of . . . non-functional descriptive material that does not serve as a limitation . . . 'escrow processing information' is broad language that is not functional and is not reciting that any specific information is being transmitted. Also, this information is never used in any further manipulative steps other than transmitted" (Office Action at page 13). This is not correct. Claim 6, as amended, recites, "generating . . . escrow processing information about the purchase-and-sale contract for the media content for processing by an escrow agent, wherein the escrow processing information comprises title of the media content, name of buyer, name of seller, price,

and date." Accordingly, claim 6 recites specific information being transmitted. Claim 6 also recites that the generated escrow processing information is further specifically used by an escrow agent to track status of payment for media content.

The Office Action further states, "[a]lso and as an alternative interpretation to the limitation of generating and transmitting 'escrow processing information', it is very well known in the art of contracts that escrow accounts are used when sellers are selling various items to a buyer" (Office Action at page 13). The Final Office Action mailed August 18, 2008, cites dictionary.com for the well known definition of escrow as follows, "escrow: a contract, deed . . . or other written agreement deposited with a third person, by whom it is to be delivered to the grantee or promisee on the fulfillment of some condition. to place in escrow: The home seller agrees to escrow the sum of \$1,000 with his attorney. Money, property, a deed, or a bond put into the custody of a third party for delivery to a grantee after the fulfillment of the conditions specified" (Final Office Action at page 19).

Even assuming that "escrow accounts are used when sellers are selling various items to a buyers" is well known, which Applicants do not concede, this information does not teach or suggest "generating . . . escrow processing information about the purchase-and-sale contract for the media content for processing by an escrow agent, wherein the escrow processing information comprises title of the media content, name of buyer, name of seller, price, and date; [and] transmitting . . . the escrow processing information to the escrow agent, wherein the escrow agent tracks status of payment for the media content based on the escrow processing information," as recited in claim 6. None of a contract, deed, money, and bond put into the custody of a third party (escrow)

constitutes “escrow processing information about a purchase-and-sale contract for media content that is generated to be processed . . . [and] transmitt[ed] . . . to the escrow agent,” as recited in claim 6. Furthermore, the use of escrow accounts when sellers are selling various items (e.g., a house) does not teach or suggest use of an escrow agent for a media content transaction. Still further, the definition cited by the Final Office Action does not teach or suggest an intermediary that receives information from a seller and a buyer and then “generating escrow processing information . . . and transmitting the escrow processing information to the escrow agent,” as recited in claim 6.

Accordingly, *Ferstenberg* fails to render the subject matter recited in claim 6 obvious. Independent claims 1 and 7, though of different scope than claim 6, are allowable for at least similar reasons as claim 6. Claims 2-5 and 8 depend from independent claims 1 and 7, and are thus allowable.

Applicants respectfully traverse the rejection of claim 9 under 35 U.S.C. §103(a) as being unpatentable over *Conklin*. A *prima facie* case of obviousness has not been established.

Independent claim 9, as amended, recites a method including, for example,

determining . . . whether the buyer information processing apparatus requested a clip representative of the media content;

generating . . . data to output the clip through the first web page, when the clip is requested; and

sending . . . the clip to the buyer information processing apparatus.

Conklin fails to teach or suggest at least the claimed determining and generating.

The Office Action alleges a “buyer requesting a clip of the media content (determining step) and sending to the buyer . . . is considered to be obvious due to the fact that it is common sense and commonplace in commerce to allow the buyer to see what it is they may want to purchase . . . with respect to movies and TV shows (media content), [and thus] it is very well know that ‘clips’ are produced so that those possibly interested in seeing the movie or the TV show can get idea of the overall content is going to be” (Office Action at page 19). This is not correct.

Requesting to see what it is they may want to purchase does not teach or suggest “request[ing] a clip representative of the media content,” as recited in claim 9. The Examiner provided the example of inspecting a car before buying it during the telephone interview. Inspecting an item, such as a car, does not teach or even suggest “request[ing] a clip representative of the media content,” as recited in claim 9. Furthermore, the Office Action seems to be describing trailers. Producing a trailer for a movie or a TV show to show the trailer to potential viewers of the movie or the TV show does not teach or suggest “generating data, to output the clip (representative of the media content) through the first web page, when the clip is requested,” as recited in claim 9.


In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: May 18, 2009

By: 
Eli Mazour
Reg. No. 59,318
direct: (202) 408-4320